

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 452 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

BHAVNAGAR MUNICIPAL CORPO

Versus

LALCHAND P RAJAEI THROUGH HIS HEIRS

Appearance:

MR JR NANAVATI for Petitioner

MR BIPIN I MEHTA for Respondent No. 1

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 12/09/2000

ORAL JUDGEMENT

1. This is an appeal under Section 104(1) of CPC read with Order 43 Rule 1(r) of the CPC filed by the original defendant challenging the legality of order dated 3.7.1989 passed below Exh.5 in Special Civil Suit No.111 of 1986 by the learned Civil Judge(S.D.),

Bhavnagar (who will be referred to hereinafter as the learned Judge of the trial Court).

2. In this appeal, the appellant is the original defendant while the respondents are the original plaintiffs in the aforesaid suit and, therefore, parties will be referred to hereinafter as plaintiff and defendants respectively at appropriate places.

3. When this appeal was taken up for final hearing, the learned advocates for both the parties jointly submitted that, without observing anything about the order challenged in this appeal and without assigning any reasons in the judgment, this appeal may be disposed of by giving suitable directions to the learned Judge of the trial Court.

4. Having heard the learned advocates for both the parties and on going through an impugned order challenged in this appeal and the grounds of this appeal, this Court is of the view that appeal deserves to be disposed of, by giving suitable directions to the learned Judge of the trial Court.

(i) The learned Judge of the trial Court is directed to dispose of Special Civil Suit No.111 of 1986 within a year by affording full opportunity of being heard, to both the parties without being influenced, in any manner, by the order of this Court.

(ii) Meanwhile, as suggested by both the parties, the defendant i.e. appellant of this appeal shall not dispose of the suit property in any manner till final disposal of the suit. In the event of any necessity or urgency, for transfer of the suit property the original defendant shall seek the permission of the Court and at that time the learned Judge of the trial Court will pass a judicial order after hearing the learned advocate for the plaintiff.

(iii) Both the parties are directed to give full co-operation to the learned Judge of the trial Court so as to enable him to dispose of the suit within a given time.

Order challenged in this appeal is modified to the aforesaid extent.

With the aforesaid directions, this appeal stands

disposed of with no order as to costs.

(H.H. Mehta, J.)

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